

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

PEDRO CORTEZ GONZALEZ,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. C-10-321
	§	
CITY OF CORPUS CHRISTI TEXAS, <i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER STRIKING DOCUMENT


On November 19, 2010, the Court held an initial pre-trial conference in the above-styled action. On December 7, 2010, Plaintiff filed “Plaintiff’s Response to Defendants Raymond A. Hullum and Charles Freeman’s Oral Motion for Summary Judgment Based on Qualified Immunity.” (D.E. 22.) Plaintiff asserted that at the pre-trial conference “Counsel for Defendants Hullum and Freeman...[had] made an oral motion for summary judgment based on qualified immunity.” (D.E. 22, p. 1-2.) On December 9, 2010, Defendants filed an objection, contending no motion for summary judgment had been made and asking that Plaintiff’s Response (D.E. 22) be struck from the record.

The Court finds Defense Counsel did not make “an oral motion for summary judgment based on qualified immunity.” (D.E. 23, p. 21.)¹ The Clerk is hereby ORDERED to STRIKE from the record Plaintiff’s “Response to Defendants Raymond A. Hullum and Charles Freeman’s

¹ At the conference, the Court asked Defense Counsel: “Is that alright if I accept your oral motion for qualified immunity for your two clients?” (D.E. 23, p. 21.) Counsel responded: “Your Honor, obviously I want to put before the Court a coherent argument for qualified immunity, **and this hasn’t been more than touching on the fact that we do assert qualified immunity.**” (*Id.*)(emphasis added). The Court stated: “All right. So you file – you consider this an oral motion for qualified immunity. You’ve got it – don’t you have it in your answer?” (*Id.*) Counsel responded: “When I file my answer, I will.” The Court concluded: “Okay.” (*Id.*) It is clear from this exchange that Defense Counsel merely asserted qualified immunity as a defense to Plaintiff’s claims. No “oral motion for summary judgment” was made.

Oral Motion for Summary Judgment Based on Qualified Immunity” (D.E. 22.) See Fed. R. Civ.
P. 12(f).

SIGNED and ORDERED this 13th day of December, 2010.



Janis Graham Jack
United States District Judge